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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,105	01/11/2005	Akiko Yuasa	MAT-8647US	7061

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/521,105

Applicant(s)

YUASA, AKIKO

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 24th and 26th of 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/26/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16 & 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimoto [U.S. Patent No. 5,989,371] in view of Embutsu et al., [U.S. Patent No. 5,699,525]. Nishimoto (figures 1-11) teaches of a refrigerator (fig. 8) containing thermal insulation material (figs. 1 & 7 e.g.,) that is formed of vacuum insulation material having inorganic material ((5) - see col. 3, lines 60-67 & col. 7, lines 1-6) as a core material and of rigid urethane foam (6). Nishimoto teaches applicant's inventive claimed structure as disclosed above, but does not further include a discriminating means associated with the refrigerator as prescribed by applicant. Embutsu (figures 1-8) is cited as an evidence reference to show that it was known in the art to utilize a discriminating means in association with an appliance, such as a refrigerator. Embutsu teaches of a discriminating means (col. 6, lines 16-33) in the form of an optically readable identification code label that is placed on a home appliance wherein the label allows a bar code reader the ability to accurately assess information directly related to the appliance and to distinguish the appliance as a recycling-promoting appliance. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a discriminating means to the refrigerator of Nishimoto in view of the teachings as set forth in Embutsu because this arrangement would enable a more prudent means for

disposal of a discarded home appliance that is environmentally friendly since the addition of a bar code label on the appliance allows the appliance to be scanned so as to obtain information related to the appliance i.e., kind or type, so as to determine the proper method of recycling the appliance.

3. Claims 16 & 18-19 are rejected under 35 U.S.C. 103(a) as being obvious over Nishimoto and Uekado et al., [U.S. Publication 2001/0036976] in view of each other.

The applied reference [Uekado] has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

4. Nishimoto (figures 1-11) teaches of a refrigerator (fig. 8) containing thermal insulation material (figs. 1 & 7 e.g.,) that is formed of vacuum insulation material having inorganic material ((5) - see col. 3, lines 60-67 & col. 7, lines 1-6) as a core

material and of rigid urethane foam (6). Nishimoto teaches applicant's inventive claimed structure as disclosed above, but does not further include a discriminating means associated with the refrigerator as prescribed by applicant. Uekado is cited to show that it was known in the art to utilize a discriminating means in association with an appliance, such as a refrigerator. Uekado teaches of a discriminating means in the form of display labels that are placed on the refrigerator to indicate information directly related to the appliance such as the materials of the rigid foam. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a discriminating means to the refrigerator of Nishimoto in view of the teachings as set forth in Uekado because this arrangement would enable a more prudent means for disposal of a discarded home appliance that is environmentally friendly since the addition of a label on the appliance allows the appliance to be scanned so as to obtain information related to the appliance, such as the materials of the insulation used in the appliance, so as to determine the proper method of recycling the appliance.

5. Uekado (figures 1-19) teaches of a refrigerator (fig. 9 e.g.) containing thermal insulation material (fig. 3 e.g.) that is formed of vacuum insulation material having rigid urethane foam as a core material, and a discriminating means (18 e.g.) for recording information about the contents of the refrigerator. Uekado teaches applicant's inventive claimed structure as disclosed above, but does not show the insulation material as having both a rigid urethane foam and an inorganic material. Nishimoto teaches the use of an insulation material having inorganic material ((5) - see col. 3, lines 60-67 & col. 7, lines 1-6) as a core material and of rigid urethane foam (6). Accordingly, the position is taken that it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to modify the insulation material of Uekado so as to incorporate an inorganic material along with the urethane foam as taught by Nishimoto because this arrangement would provide the appliance of Uekado with an insulation material that has an enhanced ability to reflect heat due to the addition of the inorganic filler.

Response to Arguments

6. Applicant's arguments filed January 24, 2007 have been fully considered but they are not persuasive. In response to applicant's remarks that the discriminating means i.e., a bar code for example, as used by applicant stores/records a weight value of inorganic material and a weight value of urethane foam used in the refrigerator and that the combination of references as used by the examiner does not address these weight values relative to the product, note the following: It is well known to encode a product with information specific to that product via a substrate [bar code] and to access this information when needed. The use of a bar code is conventional as a data recorder/identification medium; a scanner is also conventionally known/used for accessing the information via software and conveying the data in means practical for a user. U.S. Patent No. 6,112,502 to Frederick et al., issued September 5, 2000, is just one example of this conventional and known technology. Typically, a data store associated with the software includes information that correlates the bar code identifier with the product upon which it is located. As such, it is well within the level of ordinary skill in the art to input a varying array of information relating to a particular product depending upon the needs or preferences of a user/manufacturer. The differences between claimed subject matter and the prior art cited against it

cannot be ignored merely because those differences reside in the content of the encoded discrimination means. See *In re Gulack*, 703 F.2d 1381, 217 USPQ 401 (Fed. Cir. 1983). However, where the content is not functionally related in a new or unobvious way to the substrate [bar code] upon which it is encoded, the content will not distinguish the invention from the prior art in terms of patentability. Although the content has been considered, in this situation, it may not be entitled to patentable weight. Presently, it is viewed that the claimed content does not in fact establish any new or unobvious functional relationship to the bar code upon which it is encoded. As such, it appears that the bar code merely provides a source of information about the product that is specific to a particular after market dealer, this information being well within the scope of a bar codes primary function. Lacking a new or unobvious functional relationship as required in *Gulack*, the claimed content is not germane to patentability and therefore does not represent a difference or distinction over the prior art.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frederick et al., discloses the use bar code technology.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
March 23, 2007